

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

KENT GRAHAM and COLETTE SAVAGE § Case No.: 1:21-cv-00151-RP  
§  
Plaintiffs, §  
§  
vs. §  
§  
MARK SAVAGE, MICHAEL MCDONALD, §  
VIJAY MEHTA, THOMAS GRAY, REX §  
DAVIS, AND JUDGE LEE HARRIS §  
§  
Defendants, §

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DECLARATION OF JEFFREY A. MOSS IN SUPPORT OF DEFENDANT MARK  
SAVAGE'S MOTION FOR ATTORNEY'S FEES

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I, JEFFREY A. MOSS, declare:

I am the attorney for Defendant, Mark Savage, in the above-captioned action and duly licensed to practice law before all courts of the State of California and Federal Courts therein and admitted *pro hac vice* by this Court (Docket 12). This declaration is submitted in support of Mark Savage's Motion for Attorney's Fees. The following facts are within my personal knowledge and, if called as a witness herein, I can and will competently testify thereto.

This action arises out of various claims by Colette Savage relating to and or arising out of the enforcement of various promissory notes between Colette Savage and Mark Savage. Colette Savage's complaint alleged that various California and Texas State Courts improperly enforced the promissory notes of the parties. The Court ruled that all of Colette Savage's claims were a *de facto* appeal of the prior adjudicated State and Federal actions and, therefore barred by the *Rooker-Feldman* doctrine. On January 20, 2002, this Court issued its Order adopting the report and recommendations of Magistrate Hightower (Docket 97) and entered a judgment of dismissal with prejudice against Plaintiffs on January 20, 2022 (Docket 98).

*Declaration of Jeffrey A. Moss in Support of  
Defendant Mark Savage's Motion for Attorney's Fees*

The underlying Promissory Notes that form the basis for Colette Savage's amended complaint (Docket 19) each contain a clause providing that the prevailing party in any action to enforce the agreements, is entitled to an award of their reasonable attorney's fees incurred therein. The promissory notes are attached to the amended complaint as Exhibits 1, 2, and 3. (Docket 19-1)

I have been practicing in the State of California for over 38 years. During that time, I have mainly focused on civil litigation. My hourly rate that I have charged Mark Savage in this litigation is only \$395. I am familiar with attorneys' fees charged by counsel in this geographic area with my experience. The rate of \$395 per hour I have charged Mark Savage is reasonable (if not very generous) based upon the average hourly rates for attorneys with comparable qualifications.

In this action I have employed the services of a law clerk, Jeremy Paul, to assist me and to mitigate the costs of this action for Mark Savage as much as possible. Mr. Paul has been a paralegal/law clerk for 33 years. He has not only completed an online law degree program and is eligible to sit for the California Bar but has participated in over twelve civil trials, multiple arbitrations, has extensive law and motion experience, and has drafted multiple appellate briefs and writs. Plaintiff has been charged \$300 per hour for Mr. Paul's time related to this action. I am familiar with the hourly rates charged by law clerks and associates in this geographic area. Mr. Paul's experience and qualifications greatly exceed most law clerks in this geographic area and as such his hourly rate is commensurate with that level of experience and qualification.

Attached as Exhibit "A" is a true and correct history bill itemizing the hours billed to Mark Savage in this appeal. The number of hours spent by me and Mr. Paul in responding to Colette Savage's complaint/amended complaint were very reasonable given the myriad issues and records involved. Moreover, I, with the assistance of Mr. Paul, have represented Mark Savage in the multiple California actions and appeals that form much of the basis of Colette Savage's claims in her complaint and amended complaint. We have also assisted Mark Savage's Texas counsel in those related actions that form the remainder of Colette Savage's claims. As such the two of us have obtained substantial institutional knowledge about the facts and

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documents related to all of these matters and, as a result, this knowledge provided for a cost-efficient response in this appeal, a cost savings that would not have been realized had Mark Savage been required to obtain and educate other counsel.

As evidenced by the billing entries attached hereto as Exhibit A Mark Savage has been billed 46.30 hours in defending this action and preparing this motion. When the hourly rates are applied to the above hours the total amount of Mark Savage's request for attorney's fees totals \$14,521.75.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: February 2, 2022

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JEFFREY A. MOSS

*Declaration of Jeffrey A. Moss in Support of  
Defendant Mark Savage's Motion for Attorney's Fees*

# Exhibit “A”

LAW OFFICES OF JEFFREY A. MOSS  
SAVAGE, et al. v. SAVAGE, et. al.  
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Date	Timekeeper	Description	Hours	Rate	Amount
5/18/2021	JP	Telephone conference with Jeff Moss re new Federal Action in Western District of Texas.	0.20	\$ 300.00	\$ 60.00
5/20/2021	JP	Prepare Pro Hac Vice application for Western District of Texas for Jeff Moss. E-mail form to Mr. Moss for signature and return.	0.25	\$ 300.00	\$ 75.00
5/20/2021	JP	Prepare cover letter for Pro Hac Vice motion	0.30	\$ 300.00	\$ 90.00
6/8/2021	JAM	Emails to and from Alex Bass, Email to Client; Email to Julie Gordon re: filing of appearance and granting of Pro Hac Vice petition.	0.30	\$ 395.00	\$ 118.50
6/8/2021		Download Order Granting motion to appear Pro Hac Vice. Process payment for Pro Hac Vice motion with Texas District Court.	0.20	\$ 300.00	\$ 60.00
6/14/2021	JP	District. E-mail to Court.	0.25	\$ 300.00	\$ 75.00
6/14/2021	JP	Begin draft of 12b Motion to Dismiss	2.30	\$ 300.00	\$ 690.00
6/20/2021	JP	Continue to draft Motion to dismiss	3.50	\$ 300.00	\$ 1,050.00
6/21/2021		Review and revise Motion to Dismiss; Telephone conversation with Jeremy Paul; Emails to and from Jeremy Paul.	0.50	\$ 395.00	\$ 197.50
6/21/2021	JP	Prepare motion to Dismiss for filing. Extract Exhibits to Request for Judicial Notice. Redact filing information from exhibits. Add Order of District Court to Exhibits to Request for Judicial Notice. Add Certificates of Service to all documents. Convert to PDF and submit to Texas District Court for filing and service via ECM.	0.70	\$ 300.00	\$ 210.00

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<b>Date</b>	<b>Timekeeper</b>	<b>Description</b>	<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
6/21/2021	JP	Prepare motion to Dismiss for filing. Extract Exhibits to Request for Judicial Notice. Redact filing information from exhibits. Add Order of District Court to Exhibits to Request for Judicial Notice. Add Certificates of Service to all documents. Convert to PDF and submit to Texas District Court for filing and service via ECM.	4.25	\$ 300.00	\$ 1,275.00
6/24/2021	JP	e-mails from MacDonalds counsel.	0.30	\$ 300.00	\$ 90.00
6/25/2021	JAM	Review Amended Complaint; Telephone conversation with Jeremy Paul.	0.40	\$ 395.00	\$ 158.00
6/28/2021	JP	Review e-mails and docket form Court re dismissing all Defendants' Motions to Dismiss. E-mails to Jeff Moss and Mark re order dismissing motion and need to re-file.	0.25	\$ 300.00	\$ 75.00
6/30/2021	JP	Cursory review of latest filings by Colette; Review Cervantes v Ocwen loan servicing case re sanctions and vexatious litigant status as relates to Colette.	0.40	\$ 300.00	\$ 120.00
7/1/2021	JP	Review latest filing of "Colette" re "diversity".	0.25	\$ 300.00	\$ 75.00
7/8/2021	JP	Review e-mail from Leslie Benetiz re letter from Mark. Leave voice mail and follow up with e-mail that letter was requested by clerk for providing notice to Mark electronically.	0.25	\$ 300.00	\$ 75.00
7/12/2021	JP	Begin draft of Motion to Have Colette declared a vexatious litigant.	1.50	\$ 300.00	\$ 450.00
7/12/2021	JP	Review and revise Motion to Dismiss to a First Amended Motion to Dismiss re Amended Complaint. Draft Motion for Request for Judicial Notice. E-mail to Jeff Moss and Mark for review.	2.30	\$ 300.00	\$ 690.00

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Date	Timekeeper	Description	Hours	Rate	Amount
7/13/2021	JAM	Review and revise Motions (to Dismiss and Vexatious Litigant motion).	0.40	\$ 395.00	\$ 158.00
7/13/2021	JP	Make final revisions to motions and prepare documents for filing and service. File motions with Western District and send service e-mail to Pro Se Plaintiffs. Review e-mail send reply e-mail Mark.	1.20	\$ 300.00	\$ 360.00
7/13/2021		Complete draft of Motion to have Colette declared a vexatious litigant and proposed order. Forward to Jeff Moss for review.	2.20	\$ 300.00	\$ 660.00
7/19/2021	JP	Review Replies from Judge re Motions to dismiss. Review Colette's "response" to motion to dismiss and vexatious litigant. Review Colette's latest filing in Circuit Court of appeal. Review e-mail send reply e-mail Mark re latest filings.	0.75	\$ 300.00	\$ 225.00
7/21/2021	JP	Review latest filings from Colette.	0.30	\$ 300.00	\$ 90.00
7/22/2021	JP	Review e-mail send reply e-mail Mark re his questions.	0.20	\$ 300.00	\$ 60.00
7/22/2021	JP	Begin draft of Reply Brief in support of motion to dismiss.	1.50	\$ 300.00	\$ 450.00
7/28/2021	JP	Review latest filings (oppositions) from Colette.	0.25	\$ 300.00	\$ 75.00
8/12/2021	JAM	Review and revise motions	0.40	\$ 395.00	\$ 158.00

## HISTORY BILL

**LAW OFFICES OF JEFFREY A. MOSS**  
**SAVAGE, et al. v. SAVAGE, et. al.**  
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<b>Date</b>	<b>Timekeeper</b>	<b>Description</b>	<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
8/18/2021	JAM	Telephone conversation with Jeremy Paul Re; Response to Motion to file Late Pleadings by Plaintiff: and re filing of Affirmation of Judgment on Rooker Feldman grounds in support of current Motion to dismiss.	0.75	\$ 395.00	\$ 296.25
8/30/2021	JAM	Review Motion to Amend and Letter; Telephone conversation with Jeremy Paul re: filing of Opposition and RJN; Review Report and Recommendations from Magistrate; Telephone conversation with Jeremy Paul re: same; Telephone conversation with Client re: same/	2.00	\$ 395.00	\$ 790.00
9/2/2021	JP	Draft Objection to Report and Recommendation.	2.50	\$ 300.00	\$ 750.00
9/17/2021	JAM	with Jeremy Paul re: same.	0.30	\$ 395.00	\$ 118.50
9/17/2021	JP	Review latest mandamus filing from Colette. Telephone conference with Jeff Moss re supplemental opposition.	0.25	\$ 300.00	\$ 75.00
9/22/2021	JP	Make final revisions to Objection to Pleadings filed by plaintiff and prepare for filing. File with Western District.	0.50	\$ 300.00	\$ 150.00
10/1/2021	JP	Telephone conference with client	0.75	\$ 300.00	\$ 225.00
# #####	JP	Review latest filing by Colette.	0.20	\$ 300.00	\$ 60.00
1/10/2022	JAM	Jeremy Paul; Email to Client.	0.30	\$ 395.00	\$ 118.50
1/13/2022	JP	Review dockets and draft Supplemental Opposition to Plaintiffs' ongoing filings.	1.25	\$ 300.00	\$ 375.00
1/13/2022	JAM	Review and revise Supplemental Response; Email to Jeremy Paul.	0.30	\$ 395.00	\$ 118.50

**HISTORY BILL****LAW OFFICES OF JEFFREY A. MOSS**

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<b>Date</b>	<b>Timekeeper</b>	<b>Description</b>	<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
1/14/2022	JP	Review Jeff Moss revisions and make final review and revisions to supplemental objections. Convert to PDF and file and serve with Texas Western District.	0.75	\$ 300.00	\$ 225.00
1/19/2022	JP	Review Order and Judgment from TXWD.	0.25	\$ 300.00	\$ 75.00
1/25/2022	JP	Begin annotating history bill for entries related to TXWD action.	0.50	\$ 300.00	\$ 150.00
1/26/2022	JP	Complete preparation of history bill in support of motion for attorney's fees.	2.00	\$ 300.00	\$ 600.00
1/30/2022	JP	Research Texas Law re attorney's fees motion.	2.10	\$ 300.00	\$ 630.00
1/31/2022	JP	Draft Motion for Attorney's Fees	4.00	\$ 300.00	\$ 1,200.00
2/1/2022	JAM	Review and revise Motion for Attorney's Fees and Declaration in Support.	1.00	\$ 395.00	\$ 395.00
2/2/2022	JP	Make final revisions to motion, supporting declaration and history bill. Convert to PDF prepare proofs of service and file with Court.	1.00	\$ 300.00	\$ 300.00
<b>Totals</b>			<b>46.30</b>		<b><u>\$ 14,521.75</u></b>

## CERTIFICATE OF SERVICE

I, JEREMY PAUL, declare and state that I am over eighteen (18) years of age, employed in the City of San Rafael, County of Marin, California, and not a party to this action. My business address is 35 Mitchell Blvd., Suite 6, San Rafael, CA 94903.

On the date set forth below, I served the foregoing document described as:

### **DECLARATION OF JEFFREY A. MOSS IN SUPPORT OF MARK**

### **SAVAGE'S MOTION FOR ATTORNEY'S FEES**

addressed to the parties as follows:

Colette Savage, *Pro Se Complainant*  
116 South Vista #168  
Boise, ID 83705  
[Coletteski2454@gmail.com](mailto:Coletteski2454@gmail.com)

Kent Graham, *Pro Se Complainant*  
905 N. 11st Street  
Temple, TX 76501  
[Hywayspeak123@gmail.com](mailto:Hywayspeak123@gmail.com)

Vijay Mehta, *Pro Se Defendant*  
805 Paintbrush Lane  
Temple, Texas 76502

Michael McDonald, Defendant  
Through his attorney:

Leslie A. Benitez  
GORDON REES SCULLY MANSUKHANI, LLP  
901 South Mopac Expressway  
Building 1, Suite 480  
Austin, TX 78746  
Justice Thomas Gray and Judge Lee Harris, Defendants  
Through their attorney:

Jeff Work  
Assistant Attorney General  
General Litigation Division  
Office of the Attorney General  
P.O. Box 12548, Capitol Station  
Austin, TX 78711-2548

**BY ELECTRONIC MAIL** - By sending it to a registered user by filing it with the court's electronic-filing system pursuant to FRCP Rule 5(b)(2)(E).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: February 2, 2022

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Jeremy B. Paul